

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 556 of 1997

in

SPECIAL CIVIL APPLICATION No. 8559 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

and

MR.JUSTICE S.D.PANDIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 : NO

KIRTIDHAR NAVINCHANDRA MEHTA

Versus

SADHAV TRUST(THROUGH ARUNBHAI THAKKAR,

Appearance:

MR AJ SHASTRI for Petitioner

SERVED for Respondent No. 3

CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE S.D.PANDIT

Date of decision: 02/07/97

ORAL JUDGEMENT

This appeal is filed against the interim order passed by the learned Single Judge in Special Civil Application No. 8559 of 1996.

While entertaining the petition filed by the appellant-petitioner, the learned Single Judge passed the following order on April 28, 1997.

"By way of interim order, it is directed that pending this petition petitioner should be treated as an untrained teacher and be paid salary accordingly."

The learned counsel for the appellant submitted that the point is concluded by two decisions of this Court wherein B.A., B.Ed. is held to be a qualification of a trained teacher. He also submitted that all throughout the appellant was getting salary as a trained teacher. In our opinion, however, when the Tribunal has not granted salary as a trained teacher and the learned Single Judge though found that prima facie case is made out and admitted the petition, did not grant interim relief regarding the payment of salary as a trained teacher. Grant of such a relief at this stage may amount to allowing the petition. In our opinion, therefore, such a relief cannot be granted at this stage but since the appellant feels aggrieved and according to him the case is concluded by some decisions of this Court and all throughout he was getting pay-scale as a trained teacher, ends of justice would be met if we permit the appellant to request the learned Single Judge for expeditious disposal of the matter. We hope that as and when such a request is made by the appellant-petitioner, the learned Single Judge would consider the same in light of the facts and circumstance of the case and would pass appropriate orders in accordance with law.

For the foregoing reasons, this Letters Patent Appeal stands dismissed without observing anything on merits. No order as to costs.

Prakash*